

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

00 FEB 25 PM 12:11

UNITED STATES OF AMERICA,

Magistrate Docket No.

'08 MJ 0553

Plaintiff,

COMPLAINT FOR VIOLATION OF:

v.

Title 8, U.S.C., Section 1326
Attempted Entry After
Deportation

Carlos JAVIER-Rivas,

Defendant

The undersigned complainant, being duly sworn, states:

On or about **February 21, 2008** within the Southern District of California, defendant, **Carlos JAVIER-Rivas**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose, i.e. conscious desire, to enter the United States at or near the **San Ysidro**, California Port of Entry, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 25th of **FEBRUARY**
2008.


Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

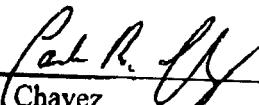
PROBABLE CAUSE STATEMENT

On February 21, 2008, Border Patrol Agent D. Vargas was performing assigned line watch duties in the Imperial Beach Border Patrol Station's area of operations. The night scope was assigned in an area approximately one mile west of the San Ysidro, California Port of Entry and approximately 150 yards north of the United States/Mexico International boundary. This area is commonly used by undocumented aliens attempting to further their illegal entry into the United States. The scope unit observed an individual jumping the primary fence and notified agent Vargas that the subject was hiding in some dense brush about 75 yards north of the United States/Mexico International Boundary. The scope unit maintained constant visual of the subject and directed Agent Vargas to the location. As agent Vargas approached the area, he encountered an individual attempting to conceal himself underneath some dense brush. Agent Vargas identified himself as a United States Border Patrol Agent and questioned the subject, who was later identified as the defendant **Carlos JAVIER-Rivas**, as to his citizenship. The defendant freely admitted to being a citizen and national of Mexico without the proper immigration documents to be or remain in the United States legally. At approximately 7:45 p.m., Agent Vargas placed the defendant under arrest and transported him to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on November 21, 2007 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on February 23, 2008 at 10:00 a.m.



Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on February 21, 2008, in violation of Title 8, United States Code, Section 1326.



Nita L. Stormes
United States Magistrate Judge

2-23-08 at 3:30PM
Date/Time